

STD. 400 (REV. 01-08)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2008-0815-04E
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Department of Fish and Game			

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Rec. Fishery Closure Fed. Groundfish & Assoc. Species N. of Pt. Arena		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 27.32	
		AMEND 27.20(f), 27.25, 27.30, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.51, 28.52, 28.53, (see attached)	
TITLE(S) 14		REPEAL	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input checked="" type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) <input type="checkbox"/> Effective 30th day after filing with Secretary of State <input type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> §100 Changes Without Regulatory Effect <input checked="" type="checkbox"/> Effective other (Specify) September 2, 2008			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY <input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Joe Milton		TELEPHONE NUMBER (916) 654-5336	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional)

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

Signature of Donald Koch

DATE

8/15/08

TYPED NAME AND TITLE OF SIGNATORY

Deputy Director

Regulatory Language

Section 27.20(f), Title 14, CCR, is amended to read:

§ 27.20. Groundfish Management Areas, Seasons, Depths, Exceptions, and Fishery Closure/Rule Change Process Described.

(f) Notice of closure and/or rule change: The department shall give the public and the National Marine Fisheries Service no less than 10 calendar days' notice of any fishery closure or rule change implemented pursuant to this Section via a department news release. Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/ www.dfg.ca.gov/marine, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE:

Authority cited: Sections 200, 202, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 7071 and 8586, Fish and Game Code; and 50 CFR 660, Subpart G.

Section 27.25, Title 14, CCR, is amended to read:

§27.25. Northern Groundfish Management Area.

This Section applies to take and possession of all 90 species of federally-managed groundfish, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos* in the Northern Groundfish Management Area. Federal groundfish include, but are not limited to, rockfish, cabezon, lingcod, California scorpionfish, kelp greenling, and some species of sharks, skates and flatfish. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Northern Groundfish Management Area means ocean waters between 42° 00' N. lat. (the Oregon/California border) and 40° 10' N. lat. (near Cape Mendocino, Humboldt County).

(b) Seasons and depth constraints (except as provided in (c) below):

(1) January 1 through April 30: Closed.

(2) May 1 through November ~~September 1~~: Open for all species only in waters shallower than 20 fathoms in depth as described by general depth contour lines.

(3) ~~September 2 through December 31: Open for all species, except for lingcod, only in waters shoreward of lines approximating the 30-fathom depth contour, defined by connecting the set of 30-fathom waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G). Lingcod may not be taken or possessed. Closed.~~

(c) Special exceptions to subsection (b) above:

(1) "Other Flatfish" as defined in subsection 1.91(a)(10), which include Pacific sanddabs, may be taken or possessed in all depths all year, except that when fishing in times or areas closed under subsection (b) above, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(2) Leopard shark may be taken or possessed in Humboldt Bay all year.

(3) When angling from shore (includes beaches, banks, piers, jetties, breakwaters, docks, and other man-made structures connected to the shore), all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March and December. No vessel or watercraft (motorized or non-motorized) may be used to assist in taking or possessing these species while angling from shore under this provision.

(4) When diving or spearfishing, as authorized in Section 28.90, all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March, and December. Except for spearfishing gear, all other types of fishing gear are prohibited to be aboard the vessel or watercraft (motorized or non-motorized) while spearfishing for the purpose of taking or possessing these species under this provision.

NOTE:

Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Section 27.30, Title 14, CCR, is amended to read:

§ 27.30. North-Central North of Point Arena Groundfish Management Area.

This Section applies to take and possession of all 90 species of federally-managed groundfish, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos* in the North-Central North of Point Arena Groundfish Management Area. Federal groundfish include, but are not limited to, rockfish, cabezon, lingcod, California scorpionfish, kelp greenling, and some species of sharks, skates and flatfish. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The North-Central North of Point Arena Groundfish Management Area means ocean waters between 40° 10' N. lat. (near Cape Mendocino, Humboldt County) and 37° 11' N. lat. ~~(at Pigeon Point, San Mateo County).~~ 38° 57.50' N. lat. (at Point Arena, Mendocino County).

(b) Seasons, depth constraints, and special closure areas (except as provided in (c) below):

(1) January 1 through May 31: Closed.

(2) June 1 through November September 1: Open for all species only in waters shallower than 20 fathoms in depth as described by general depth contour lines.

(3) September 2 through December 31: Closed.

~~(4) Waters shallower than 10 fathoms in depth as described by general depth contour lines around the Farallon Islands (off San Francisco and San Mateo counties), including Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock are closed to fishing for these species at all times. Special exceptions provided for "other flatfish" in subsection (c)(1), shore-based angling in subsection (c)(3) and spearfishing/diving in subsection (c)(4) below do not apply in this closure area.~~

~~(5) Waters of the Cordell Bank (off Marin County) shallower than 100 fathoms in depth as approximated by the 100 fathom depth contour that is defined by connecting the set of 100 fathom waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G),~~

are closed to fishing for these species at all times. Special exceptions provided for shore-based angling in subsection (c)(3) and spearfishing/diving in subsection (c)(4) below do not apply in this closure area.

(c) Special exceptions to subsection (b) above:

(1) "Other Flatfish" as defined in subsection 1.91(a)(10), which include Pacific sanddabs, may be taken or possessed in all depths all year, except that when fishing in times or areas closed under subsection (b) above, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(2) Leopard shark may be taken or possessed in Drake's Estero Bay, Bolinas Bay, Tomales Bay, Bodega Harbor, and San Francisco Bay all year.

(3)(2) When angling from shore (includes beaches, banks, piers, jetties, breakwaters, docks, and other man-made structures connected to the shore), all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March and December. No vessel or watercraft (motorized or non-motorized) may be used to assist in taking or possessing these species while angling from shore under this provision.

(4)(3) When diving or spearfishing, as authorized in Section 28.90, all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March, and December. Except for spearfishing gear, all other types of fishing gear are prohibited to be aboard the vessel or watercraft (motorized or non-motorized) while spearfishing for the purpose of taking or possessing these species under this provision.

NOTE:

Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Section 27.32, Title 14, CCR, is added to read:

§ 27.32. North-Central South of Point Arena Groundfish Management Area.

This Section applies to take and possession of all 90 species of federally-managed groundfish, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos* in the North-Central South of Point Arena Groundfish Management Area. Federal groundfish include, but are not limited to, rockfish, cabezon, lingcod, California scorpionfish, kelp greenling, and some species of sharks, skates and flatfish. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The North-Central South of Point Arena Groundfish Management Area means ocean waters between 38° 57.50' N. lat. (at Point Arena, Mendocino County) and 37° 11' N. lat. (at Pigeon Point, San Mateo County).

(b) Seasons, depth constraints, and special closure areas (except as provided in (c) below):

(1) January 1 through May 31: Closed.

(2) June 1 through November 30: Open for all species only in waters shallower than 20 fathoms in depth as described by general depth contour lines.

(3) December: Closed.

(4) Farallons Closure Area: Waters shallower than 10 fathoms in depth as described by general depth contour lines around the Farallon Islands (off San Francisco and San Mateo counties), including Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock are closed to fishing for these species at all times. Special exceptions provided for "other flatfish" in subsection (c)(1), shore-based angling in subsection (c)(3) and spearfishing/diving in subsection (c)(4) below do not apply in this closure area.

(5) Cordell Bank Closure Area: Waters of the Cordell Bank (off Marin County) shallower than 100 fathoms in depth as approximated by the 100-fathom depth contour that is defined by connecting the set of 100-fathom waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G), is closed to fishing for these species at all times. Special exceptions provided for "other flatfish" in sub-section (c)(1) below apply in this closure area. Special exceptions provided for shore-based angling in subsection (c)(3) and spearfishing/diving in subsection (c)(4) below do not apply in this closure area.

(c) Special exceptions to subsection (b) above:

(1) "Other Flatfish" as defined in subsection 1.91(a)(10), which include Pacific sanddabs, may be taken or possessed in all depths all year, except that when fishing in times or areas closed under subsection (b) above, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(2) Leopard shark may be taken or possessed in Drake's Estero Bay, Bolinas Bay, Tomales Bay, Bodega Harbor, and San Francisco Bay all year.

(3) When angling from shore (includes beaches, banks, piers, jetties, breakwaters, docks, and other man-made structures connected to the shore), all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March and December. No vessel or watercraft (motorized or non-motorized) may be used to assist in taking or possessing these species while angling from shore under this provision.

(4) When diving or spearfishing, as authorized in Section 28.90, all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March, and December. Except for spearfishing gear, all other types of fishing gear are prohibited to be aboard the vessel or watercraft (motorized or non-motorized) while spearfishing for the purpose of taking or possessing these species under this provision.

NOTE:

Authority cited: Sections 200, 202, and 205, Fish and Game Code. Reference: Sections 200, 202, 205.

§ 28.26. California Sheephead.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May 1 through ~~December~~ September 1, in waters shallower than 20 fathoms.

- (2) North-Central North of Point Arena Groundfish Management Area: Open June 1 through ~~November~~ September 1, in waters shallower than 20 fathoms.
- (3) North-Central South of Point Arena Groundfish Management Area: Open June 1 through November 30, in waters shallower than 20 fathoms.
- (3)(4) Monterey South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.
- (4)(5) Morro Bay South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.
- (5)(6) Southern Groundfish Management Area: Open March 1 through November 30, in waters shallower than 60 fathoms.
- (6)(7) Cowcod Conservation Areas: Open March 1 through December 31, in waters shallower than 20 fathoms.
- (b) Limit: Five.
- (c) Minimum size: 12 inches total length.
- (d) Fishing rules for California sheephead may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for this species made under the authority of subsection 27.20(e) or Section 52.10. Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: ~~www.dfg.ca.gov/mrd/~~ www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE:

Authority cited: Sections 200, 202, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 7071 and 8586, Fish and Game Code.

Section 28.27, Title 14, CCR, is amended to read:

§ 28.27. Lingcod.

- (a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:
- (1) Northern Groundfish Management Area: Open May 1 through ~~November~~ September 1, in waters shallower than 20 fathoms.
- (2) North-Central North of Point Arena Groundfish Management Area: Open June 1 through ~~November~~ September 1, in waters shallower than 20 fathoms.
- (3) North-Central South of Point Arena Groundfish Management Area: Open June 1 through November 30, in waters shallower than 20 fathoms.
- (3)(4) Monterey South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.
- (4)(5) Morro Bay South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.
- (5)(6) Southern Groundfish Management Area: Open April 1 through November 30, in waters shallower than 60 fathoms.
- (6)(7) Cowcod Conservation Areas: Open April 1 through December 31, in waters shallower than 20 fathoms.

- (b) Limit: Two.
- (c) Minimum size: 24 inches total length.
- (d) Method of take: Not more than two hooks and one line. For purposes of this section, a hook is a single hook, or double or treble hook with multiple points connected to a common shank.
- (e) Fishing rules for lingcod may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for this species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/ www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE:

Authority cited: Sections 200, 202, 220 and 8587.1, Fish and Game Code. Reference: Sections 205 and 8586, Fish and Game Code; and 50 CFR 660, Subpart G.

Section 28.28, Title 14, CCR, is amended to read:

§ 28.28. Cabezon.

- (a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:
 - (1) Northern Groundfish Management Area: Open May 1 through ~~December~~ September 1, in waters shallower than 20 fathoms.
 - (2) North-Central North of Point Arena Groundfish Management Area: Open June 1 through ~~November~~ September 1, in waters shallower than 20 fathoms.
 - (3) North-Central South of Point Arena Groundfish Management Area: Open June 1 through November 30, in waters shallower than 20 fathoms.
 - ~~(3)~~(4) Monterey South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.
 - ~~(4)~~(5) Morro Bay South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.
 - ~~(5)~~(6) Southern Groundfish Management Area: Open March 1 through November 30, in waters shallower than 60 fathoms.
 - ~~(6)~~(7) Cowcod Conservation Areas: Open March 1 through December 31, in waters shallower than 20 fathoms.
- (b) Limit: One fish, within a Rockfish, Cabezon, and Greenling complex (RCG complex, as defined in Section 1.91) bag limit of 10 fish.
- (c) Minimum size: 15 inches total length.
- (d) Fishing rules for cabezon may be changed during the year or in-season by the department under the authority of subsection 27.20(e) or Section 52.10. The department will provide a news release notifying the public 10 calendar days in advance of a change for this species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/

www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE:

Authority cited: Sections 200, 202, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 210, 7071 and 8586, Fish and Game Code; and 50 CFR 660, Subpart G.

Section 28.29, Title 14, CCR, is amended to read:

§ 28.29. Kelp Greenling. Rock Greenling.

(a) Open areas, seasons, and depth constraints for greenlings of the genus *Hexagrammos* (including kelp and rock greenlings): See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May 1 through ~~December~~ September 1, in waters shallower than 20 fathoms.

(2) North-Central North of Point Arena Groundfish Management Area: Open June 1 through ~~November~~ September 1, in waters shallower than 20 fathoms.

(3) North-Central South of Point Arena Groundfish Management Area: Open June 1 through November 30, in waters shallower than 20 fathoms.

~~(3)(4)~~ Monterey South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(4)(5)~~ Morro Bay South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(5)(6)~~ Southern Groundfish Management Area: Open March 1 through November 30, in waters shallower than 60 fathoms.

~~(6)(7)~~ Cowcod Conservation Areas: Open March 1 through December 31, in waters shallower than 20 fathoms.

(b) Limit: One fish, within a Rockfish, Cabezon, and Greenling complex (RCG complex, as defined in Section 1.91) bag limit of 10 fish.

(b) Limit: For greenlings of the genus *Hexagrammos*, within a Rockfish, Cabezon, and Greenling complex (RCG complex, as defined in Section 1.91) bag limit of 10 fish, two fish.

(c) Minimum size: 12 inches total length.

(d) Fishing rules for greenlings of the genus *Hexagrammos* may be changed during the year or in-season by the department under the authority of subsection 27.20(e) or Section 52.10. The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at:

www.dfg.ca.gov/mrd/ www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE:

Authority cited: Sections 200, 202, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 210, 7071 and 8586, Fish and Game Code; and 50 CFR 660, Subpart G.

Section 28.48, Title 14, CCR, is amended to read:

§ 28.48. Pacific Sanddab, Rock Sole, Sand Sole, Butter Sole, Curlfin Sole, Rex Sole, and Flathead Sole.

Pacific sanddab, rock sole, sand sole, butter sole, curlfin sole, rex sole, and flathead sole are federal groundfish, as defined in Section 1.91, and thus are subject to special regulations as follows. These species are also known in the aggregate as "other flatfish" pursuant to subsection 1.91(a)(10). Regulations of this Section do not apply to other species of sanddabs, flounders, or sole.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open year-round, except gear restrictions apply as follows:

(A) January 1 through April 30 - In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(B) May 1 through ~~December~~ September 1 - In waters deeper than 20 fathoms, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(C) September 2 through December 31 - In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(2) North-Central North of Point Arena Groundfish Management Area: Open year-round, except gear restrictions apply as follows:

(A) January 1 through May 30 - In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(B) June 1 through ~~November~~ September 1 - In waters deeper than 20 fathoms, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(C) ~~December-September 2 through December 31~~ - In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(3) North-Central South of Point Arena Groundfish Management Area: Open year-round, except gear restrictions apply as follows:

(A) January 1 through May 30 - In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(B) June 1 through November 30 - In waters deeper than 20 fathoms, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(C) December - In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

~~(3)~~(4) Monterey South-Central Groundfish Management Area: Open year-round, except gear restrictions apply as follows:

(A) January through April - In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(B) May through November - In waters deeper than 40 fathoms, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(C) December - In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

~~(4)~~(5) Morro Bay South-Central Groundfish Management Area: Open year-round, except gear restrictions apply as follows:

(A) January through April - In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(B) May through November - In waters deeper than 40 fathoms, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(C) December - In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

~~(5)~~(6) Southern Groundfish Management Area: Open year-round, except gear restrictions apply as follows:

(A) January and February - In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(B) March through December - In waters deeper than 60 fathoms, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

~~(6)~~(7) Cowcod Conservation Areas: Open year-round, except gear restrictions apply as follows:

(A) January and February - In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(B) March through December - In waters deeper than 60 fathoms, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(b) Fishing rules for Pacific sanddab, rock sole, sand sole, butter sole, curlfin sole, rex sole, and flathead sole may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/ www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

(c) Limit: There is no limit on Pacific sanddab. The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to rock sole, sand sole, butter sole, curlfin sole, rex sole, and flathead sole.

NOTE:

Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Section 28.49, Title 14, CCR, is amended to read:

§ 28.49. Dover Sole, English Sole, Petrale Sole, Arrowtooth Flounder, and Starry Flounder.

Dover sole, English sole, Petrale sole, arrowtooth flounder and starry flounder are federal groundfish, as defined in Section 1.91, and thus are subject to special regulations as follows. Regulations of this Section do not apply to other species of flounders or sole.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May 1 through ~~December~~ September 1, in waters shallower than 20 fathoms.

(2) North-Central North of Point Arena Groundfish Management Area: Open June 1 through ~~November~~ September 1, in waters shallower than 20 fathoms.

(3) North-Central South of Point Arena Groundfish Management Area: Open June 1 through November 30, in waters shallower than 20 fathoms.

~~(3)~~(4) Monterey South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(4)~~(5) Morro Bay South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(5)~~(6) Southern Groundfish Management Area: Open March 1 through December 31, in waters shallower than 60 fathoms.

~~(6)~~(7) Cowcod Conservation Areas: Closed.

(b) Fishing rules for Dover sole, English sole, Petrale sole, arrowtooth flounder and starry flounder may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's

website at: www.dfg.ca.gov/mrd/ www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

(c) Limit: There is no limit on Petrale sole or starry flounder. The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to Dover sole, English sole, and arrowtooth flounder.

NOTE:

Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Section 28.51, Title 14, CCR, is amended to read:

§ 28.51. Spiny Dogfish, Soupfin Shark.

Spiny dogfish and soupfin shark are federal groundfish, as defined in Section 1.91, and thus are subject to special regulations as follows.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May 1 through ~~December~~ September 1, in waters shallower than 20 fathoms.

(2) North-Central North of Point Arena Groundfish Management Area: Open June 1 through ~~November~~ September 1, in waters shallower than 20 fathoms.

(3) North-Central South of Point Arena Groundfish Management Area: Open June 1 through November 30, in waters shallower than 20 fathoms.

~~(3)~~(4) Monterey South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(4)~~(5) Morro Bay South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(5)~~(6) Southern Groundfish Management Area: Open March 1 through December 31, in waters shallower than 60 fathoms.

~~(6)~~(7) Cowcod Conservation Areas: Closed.

(b) Fishing rules for spiny dogfish and soupfin shark may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/ www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

(c) Limit: Soupfin shark - one. The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to spiny dogfish.

NOTE:

Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Section 28.52, Title 14, CCR, is amended to read:

§ 28.52. Big Skates, California Skates, and Longnose Skates.

Big skates, California skates, and longnose skates are federal groundfish, as defined in Section 1.91, and thus are subject to special regulations as follows. Regulations in this Section do not apply to other skate species.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May 1 through ~~December~~September 1, in waters shallower than 20 fathoms.

(2) North-Central North of Point Arena Groundfish Management Area: Open June 1 through ~~November~~September 1, in waters shallower than 20 fathoms.

(3) North-Central South of Point Arena Groundfish Management Area: Open June 1 through November 30, in waters shallower than 20 fathoms.

~~(3)~~(4) Monterey South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(4)~~(5) Morro Bay South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(5)~~(6) Southern Groundfish Management Area: Open March 1 through December 31, in waters shallower than 60 fathoms.

~~(6)~~(7) Cowcod Conservation Areas: Closed.

(b) Fishing rules for big skates, California skates, and longnose skates may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/ www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

(c) Limit: The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to big skates, California skates, and longnose skates.

NOTE:

Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Section 28.53, Title 14, CCR, is amended to read:

§ 28.53. Ratfish, Rattails and Codlings.

Ratfish, Pacific rattail and finescale codling are federal groundfish, as defined in Section 1.91, and thus are subject to special regulations as follows. Regulations in this Section do not apply to other rattail or codling species.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May 1 through ~~December~~ September 1, in waters shallower than 20 fathoms.

(2) North-Central North of Point Arena Groundfish Management Area: Open June 1 through ~~November~~ September 1, in waters shallower than 20 fathoms.

(3) North-Central South of Point Arena Groundfish Management Area: Open June 1 through November 30, in waters shallower than 20 fathoms.

(3)(4) Monterey South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

(4)(5) Morro Bay South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

(5)(6) Southern Groundfish Management Area: Open March 1 through December 31, in waters shallower than 60 fathoms.

(6)(7) Cowcod Conservation Areas: Closed.

(b) Fishing rules for ratfish, Pacific rattail and finescale codling may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/, www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

(c) Limit: The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to ratfish, Pacific rattail and finescale codling.

NOTE:

Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Section 28.54, Title 14, CCR, is amended to read:

§ 28.54. California Scorpionfish (Sculpin).

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May 1 through ~~December~~ September 1, in waters shallower than 20 fathoms.

(2) North-Central North of Point Arena Groundfish Management Area: Open June 1 through ~~November~~ September 1, in waters shallower than 20 fathoms.

(3) North-Central South of Point Arena Groundfish Management Area: Open June 1 through November 30, in waters shallower than 20 fathoms.

(3)(4) Monterey South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

(4)(5) Morro Bay South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(5)(6)~~ Southern Groundfish Management Area: Open January 1 through the last day of and February in waters shallower than 40 fathoms, and March 1 through December 31 in waters shallower than 60 fathoms.

~~(6)(7)~~ Cowcod Conservation Areas: Open January 1 through December 31, in waters shallower than 20 fathoms.

(b) Limit: Five.

(c) Minimum size: 10 inches total length.

(d) Fishing rules for California scorpionfish may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for this species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/ www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE:

Authority cited: Sections 200, 202, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 210, 220, 7071 and 8586, Fish and Game Code; and 50 CFR 660, Subpart G.

Section 28.55, Title 14, CCR, is amended to read:

§ 28.55. Rockfish (Sebastes).

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May 1 through ~~December~~ September 1, in waters shallower than 20 fathoms.

(2) North-Central North of Point Arena Groundfish Management Area: Open June 1 through ~~November~~ September 1, in waters shallower than 20 fathoms.

(3) North-Central South of Point Arena Groundfish Management Area: Open June 1 through November 30, in waters shallower than 20 fathoms.

~~(3)(4)~~ Monterey South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(4)(5)~~ Morro Bay South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(5)(6)~~ Southern Groundfish Management Area: Open March 1 through December 31, in waters shallower than 60 fathoms.

~~(6)(7)~~ Cowcod Conservation Areas: Open March 1 through December 31, in waters shallower than 20 fathoms, except that only Nearshore Rockfish, as defined in subsection 1.91(a)(1) may be taken and possessed.

(b) Limit: Ten, within the Rockfish, Cabezon, and Greenling complex (RCG complex, as defined in Section 1.91) bag limit of 10 fish, in any combination of species, except as provided below.

(1) The limit on canary rockfish, cowcod, and yelloweye rockfish is zero. These species shall not be taken or possessed as part of the RCG limit.

(2) In the Northern Groundfish Management Area (see Section 27.25), the limit on bocaccio rockfish is two fish, within the RCG limit.

(3) In the North-Central North of Point Arena, North-Central South of Point Arena, Monterey South-Central, Morro Bay South-Central, and Southern Groundfish Management Areas (see sections 27.30 through 27.45), the limit on bocaccio rockfish is one fish, within the RCG limit.

(4) In the Cowcod Conservation Areas (see Section 27.50), the limit on bocaccio and other shelf and slope rockfish, as defined in subsections 1.91(a)(3) and 1.91(a)(4), is zero. These species shall not be taken or possessed as part of the RCG limit in this Management Area.

(c) Size limit: None, except no bocaccio may be taken or possessed that is less than 10 inches in total length.

(d) Method of take: Not more than two hooks and one line. For purposes of this section, a hook is a single hook, or a double or treble hook with multiple points connected to a common shank.

(e) Fishing rules for rockfish may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/ www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE:

Authority cited: Sections 200, 202, 215, 220, 7071 and 8587.1, Fish and Game Code.

Reference: Sections 205, 215, 220, 7071 and 8585.5, Fish and Game Code.

Section 28.56, Title 14, CCR, is amended to read:

§ 28.56. Leopard Shark.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May 1 through ~~December~~ September 1, in waters shallower than 20 fathoms, except that take and possession is authorized year-round in Humboldt Bay.

(2) North-Central North of Point Arena Groundfish Management Area: Open June 1 through ~~November~~ September 1, in waters shallower than 20 fathoms, ~~except that take and possession is authorized year-round in Drake's Estero Bay, Bolinas Bay, Tomales Bay, Bodega Harbor, and San Francisco Bay.~~

(3) North-Central South of Point Arena Groundfish Management Area: Open June 1 through November 30, in waters shallower than 20 fathoms, ~~except that take and possession is authorized year-round in Drake's Estero Bay, Bolinas Bay, Tomales Bay, Bodega Harbor, and San Francisco Bay.~~

~~(3)~~(4) Monterey South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms, except that take and possession is authorized year-round in Elkhorn Slough.

~~(4)~~(5) Morro Bay South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(5)~~(6) Southern Groundfish Management Area: Open March 1 through December 31, in waters shallower than 60 fathoms, except that take and possession is authorized year-round in Newport Bay, Alamitos Bay, Mission Bay, and San Diego Bay.

~~(6)~~(7) Cowcod Conservation Areas: Open March 1 through December 31, in waters shallower than 20 fathoms.

(b) Limit: three.

(c) Minimum size: 36 inches total length.

(d) Fishing rules for leopard shark may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for this species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/ www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE:

Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205, 206 and 210, Fish and Game Code.

Section 28.57, Title 14, CCR, is amended to read:

§ 28.57. Pacific Cod, Pacific Whiting, Sablefish, and Thornyheads.

Pacific cod, Pacific whiting, sablefish, longspine thornyhead, and shortspine thornyhead are federal groundfish, as defined in Section 1.91, and thus are subject to special regulations as follows.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May 1 through ~~December~~ September 1, in waters shallower than 20 fathoms.

(2) North-Central North of Point Arena Groundfish Management Area: Open June 1 through ~~November~~ September 1, in waters shallower than 20 fathoms.

(3) North-Central South of Point Arena Groundfish Management Area: Open June 1 through November 30, in waters shallower than 20 fathoms.

~~(3)~~(4) Monterey South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(4)~~(5) Morro Bay South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

~~(5)~~(6) Southern Groundfish Management Area: Open March 1 through December 31, in waters shallower than 60 fathoms.

~~(6)~~(7) Cowcod Conservation Areas: Closed.

(b) Fishing rules for Pacific cod, Pacific whiting, sablefish, longspine thornyhead, and shortspine thornyhead may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made

under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/ www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

(c) Limit: The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to Pacific cod, Pacific whiting, sablefish, longspine thornyhead, and shortspine thornyhead.

NOTE:

Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code; and 50 CFR Part 660, Subpart G.

Section 28.58, Title 14, CCR, is amended to read:

§ 28.58. Ocean Whitefish.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May 1 through December September 1, in waters shallower than 20 fathoms.

(2) North-Central North of Point Arena Groundfish Management Area: Open June 1 through November-September 1, in waters shallower than 20 fathoms.

(3) North-Central South of Point Arena Groundfish Management Area: Open June 1 through September 1, in waters shallower than 20 fathoms.

(3)(4) Monterey South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

(4)(5) Morro Bay South-Central Groundfish Management Area: Open May 1 through November 30, in waters shallower than 40 fathoms.

(5)(6) Southern Groundfish Management Area: Open March 1 through December 31, in waters shallower than 60 fathoms.

(6)(7) Cowcod Conservation Areas: Open March 1 through December 31, in waters shallower than 20 fathoms.

(b) Fishing rules for ocean whitefish may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for this species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/ www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

(c) Limit: The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to ocean whitefish.

NOTE:

Authority cited: Sections 200, 202, 205, 210, 215, and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215, and 220, Fish and Game Code.

**STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME
STATEMENT OF PROPOSED EMERGENCY REGULATORY ACTION**

Emergency Action to Amend Sections 27.20(f), 27.25, 27.30, 28.26, 28.27, 28.28,
28.29, 28.48, 28.49, 28.51, 28.52, 28.53, 28.54, 28.55, 28.56, 28.57, 28.58,
Add Section 27.32,
Title 14, California Code of Regulations,
Re: Recreational Fishery Closure for Federal Groundfish and Associated Species
North of Point Arena

I. Express Finding of Emergency:

Based on substantial evidence on the record, the Department of Fish and Game (Department) expressly finds that emergency promulgation of these regulations is necessary for the immediate preservation of the general welfare. Because opportunities for public review and comment are provided through parallel federal processes, the Department has determined that the emergency situation clearly poses such an immediate, serious harm that delaying action to allow additional public comment would be redundant and inconsistent with the public interest.

II. Statement of Facts Constituting Need for Emergency Action:

The National Marine Fisheries Service (NMFS) declared yelloweye rockfish to be overfished in 2002. Because this species is late-maturing, slow-growing and long-lived, rebuilding the population will take 76 years (see 50 C.F.R. § 660.365(a),(h).) In 2006, NMFS adopted a final rule to establish the 2007 and 2008 harvest guidelines (HGs) and management measures, and amend the Pacific Coast Groundfish Fishery Management Plan (GFMP) to implement revised rebuilding plans for the seven overfished species, including yelloweye rockfish. (71 Federal Register 78638 (December 29, 2006).) Together, the GFMP amendment and the 2007 and 2008 HGs and management measures are intended to rebuild overfished stocks as soon as possible, taking into account the status and biology of the stocks, the needs of fishing communities, and the interaction of the overfished stocks within the marine ecosystem.

On March 13, 2008, California reported to the Pacific Fishery Management Council (PFMC) that in 2007, the California recreational fishery significantly exceeded its HG for yelloweye rockfish. Because overfished stocks are managed on projected or anticipated catch based on past years' data and current fishing season structure, California was asked to recommend inseason management actions that would keep the estimated catch of yelloweye rockfish and other overfished species from exceeding the respective 2008 HGs. The Department of Fish and Game moved forward with emergency amendments to recreational groundfish regulations pursuant to OAL File# 2008-0505-01E, which

became effective May 9, 2008. The action taken at that time constrained fishing activities north of Pigeon Point (37° 11' N. lat.) to waters less than 20 fathoms in depth, based on the geographic and depth distribution of the 2007 catch. The measure was needed to ensure that 2008 fishing activities would not result in exceeding the HGs for yelloweye rockfish and other overfished species, as had happened in 2007.

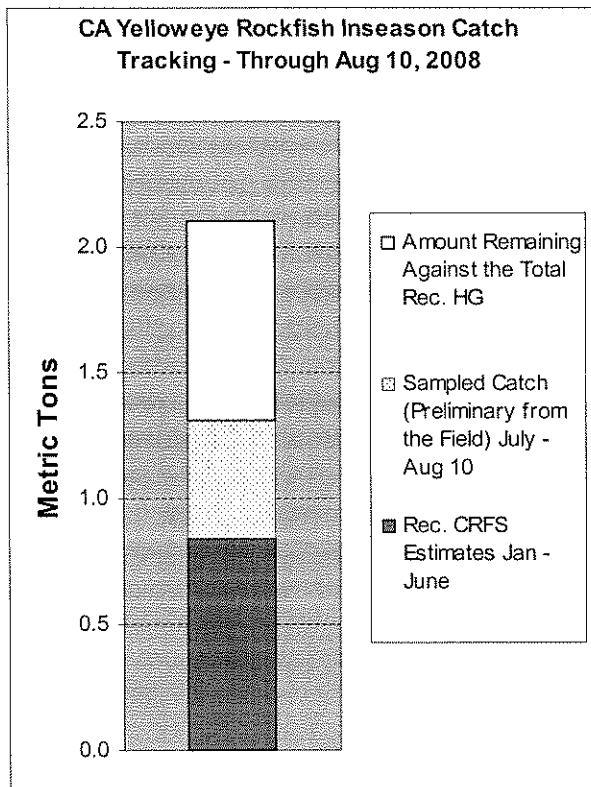
The Department has been closely tracking the volume and location of yelloweye rockfish catch since the opening dates of the 2008 recreational groundfish fishing season. Active inseason monitoring of data from the California Recreational Fisheries Survey (CRFS) indicate that despite the emergency action taken in May, California has already accrued 1.31 mt (62.4%) of yelloweye rockfish against the 2.1 mt HG as of August 10, 2008 (see Table 1 and Figure 1). Projecting these catch rates forward in time, the Department anticipates that the 2.1 mt HG will be attained by early September. As current regulations allow fishing through the end of November, they are not sufficient to limit the total mortality of yelloweye rockfish to levels below the HG.

Because approximately 84 percent of the sampled 2008 yelloweye rockfish catch has been from ports north of Point Arena (38° 57.5' N. lat., Mendocino County) (see Table 1), the Department anticipates that closing waters north of Point Arena to groundfish fishing at all depths should be sufficient to constrain the state's recreational yelloweye catches to the HG while allowing more southerly areas where yelloweye are less prevalent to remain open.

Table 1: Department estimates of the distribution of California's 2008 recreational yelloweye rockfish catch (1.31 mt) by groundfish management area through August 10, 2008.

Management Area	Percentage of Estimated Catch of 1.31 mt (Jan. thru Aug 10th)
North	32%
North-Central North of Point Arena	52%
North-Central South of Point Arena	12%
South-Central Monterey	4%
South-Central Morro Bay	0%
South	0%

Figure 1: Department estimates of yelloweye rockfish catch resulting from analysis of CRFS data. California's recreational catch for January through June of 2008 is estimated by CRFS models at 0.84 mt (red). Based on field sample data collected from July through Aug 10, the Department estimates an additional 0.47 mt (stippled red) has been taken as of this date. The amount of catch remaining toward the 2.1 mt harvest guideline is 0.79 mt (white).



Based upon the Department's current estimates of 2008 yelloweye rockfish catch, the Director proposes to take this emergency regulatory action to close the recreational groundfish fishery and associated species at all depths in waters north of Point Arena on September 2. The Director has found that this immediate action to close this portion of the fishery is necessary to prevent the HG in California from being exceeded and that it is necessary to avoid a substantial and adverse effect on the GFMP. If these waters were to remain open through the end of November as authorized by the current regulations, the Department anticipates that California's recreational yelloweye HG would be significantly exceeded.

Additionally, due to the format, organization and content of existing recreational groundfish regulations established in Sections 27.20 through 28.58, Title 14, CCR, the following amendments to the regulatory text are also necessary to ensure that waters north of Point Arena are closed to fishing effective September 2, while allowing areas to the south to remain open:

- The North-Central Groundfish Management Area (Section 27.30) would be split into two distinct management areas at Point Arena (38° 57.5' N. lat., Mendocino County) under the proposed action. Existing language of Section 27.30 would be modified to designate the northern portion of the area as the "North-Central North of Point Arena Groundfish Management Area," while Section 27.32 would be added to specify regulations for the "North-Central South of Point Arena Groundfish Management Area."

Splitting the North-Central Management Area would allow for differing regulations north and south of Point Arena, and allow for finer-scale regional management. The take of yelloweye rockfish north of Point Arena is significantly higher than that south of Point Arena as depicted in Table 1. To maximize recreational fishing opportunities, it is necessary to restrict the take of yelloweye rockfish by closing recreational groundfish fishing in the North-Central North of Point Arena Management Area, while still allowing the North-Central South of Point Arena Management Area to remain open.

Regulations pertaining to the Farallons Closure Area, the Cordell Bank Closure Area, and the exception allowing the year-round take of leopard shark in several bays would be removed from Section 27.30 and relocated to Section 27.32, so that these regulations appear within the management area corresponding to these geographic locations.

- The action taken pursuant to OAL File# 2008-0505-01E, which became effective May 9, 2008, constrained fishing activities north of Pigeon Point (37° 11' N. lat.) to waters not greater than 20 fathoms in depth. The action also updated the Department's website address so that the currently-effective recreational groundfish regulations can be obtained by the fishing public. The Certificate of Compliance for that action must be transmitted to OAL by 11-5-2008 or the emergency language will be repealed by operation of law on the following day. The Department does not propose to re-adopt that emergency action because the provisions in that action are now inadequate in light of the latest catch information from waters north of Point Arena.

For waters between Point Arena and Pigeon Point, the proposed amendments contained in this emergency action would allow fishing to remain open, but allowable fishing depths would continue to be constrained to ensure avoidance of yelloweye rockfish in the deeper shelf waters as was done in the first emergency action. In this second emergency action, the Department proposes to set the allowable fishing depth for the newly-established North-Central South of Point Arena at not greater than 20 fathoms, in essence, reaffirming the action taken in the emergency action effective May 9, 2008.

Additionally, the Department proposes to maintain the amended website address (www.dfg.ca.gov/marine) where recreational groundfish regulations can be obtained by the fishing public. Maintaining this change to the regulatory text is

needed in this second emergency action to make the current California marine sportfishing regulations available at the time fishing activities are contemplated.

In summary, this proposed emergency action would prohibit all recreational groundfish fishing in waters north of Point Arena beginning September 2, 2008. The fishery closure would apply to recreational fishing for all species of federal groundfish as defined in Section 1.91, Title 14, CCR (groundfish include but are not limited to rockfish, cabezon, lingcod, California scorpionfish, kelp greenling, and some species of sharks, skates and flatfish) and the following species known to associate with federal groundfish, i.e., California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*. It is expected that this action will allow fishing effort only in areas where yelloweye rockfish are less commonly encountered, and thus will reduce the incidental catch of this species.

III. Authority and Reference:

Authority: Fish and Game Code Section 702

Reference: 14 CCR §§ 27.20, 27.25, 27.30, 28.26, 28.27, 28.28, 28.29, 28.48, 28.49, 28.51, 28.52, 28.53, 28.54, 28.55, 28.56, 28.57, 28.58; 50 C.F.R. § 660.384.

IV. Informative Digest/Policy Statement Overview:

In enacting Fish and Game Code Section 7652, the Legislature made the basic policy decision that the State of California shall fully cooperate and assist in the formulation of Fishery Management Plans (FMP) by the PFMC. A basic policy determination has also been made to support an FMP once it is adopted. (*Salmon Trollers Marketing Association v. Fullerton* (1981) 124 Cal.App.3d 291, 300.) Failure to take conforming action means the state would be omitting to take an action whose results would "substantially and adversely affect the carrying out" of the FMP, and so risk federal preemption. (16 U.S.C. § 1856(b).) It is also the policy of the state that programs for the conservation and management of the marine fishery resources of California shall be established and administered "to prevent overfishing, to rebuild depressed stocks, to ensure conservation, to facilitate long term protection and, where feasible, restoration of marine fishery habitats, and to achieve the sustainable use of the state's fishery resources." (Fish and Game Code § 7055(b).)

Summary of Existing Laws:

Under existing federal law, the Magnuson-Stevens Fishery and Conservation and Management Act (Magnuson) governs fisheries management in the Exclusive Economic Zone (EEZ), 3 to 200 miles off the coast, through the use of fishery management plans. As part of this process, the U.S. Department of Commerce

directs the National Oceanic and Atmospheric Administration, which delegates management to NMFS. The NMFS oversees the operations of the eight regional fishery management councils, including the PFMF. The Department represents the State of California on the PFMF, and actively participates in the analysis and formulation of management recommendations to the PFMF. (16 U.S.C. § 1852(a); 50 C.F.R. § 600.205.) Under Magnuson, the GFMP and its implementing regulations (50 C.F.R. Part 660, Subpart G) regulate fishing for 82 species of groundfish, including yelloweye rockfish, off the coasts of Washington, Oregon, and California. These regulations specifically address recreational fishery management. (50 C.F.R. § 660.384.)

The Magnuson requires that all FMPs prevent overfishing and minimize bycatch. (16 U.S.C. § 1851(a).) Magnuson also requires stringent protections for species that are declared to be "overfished" (i.e. less than 25 percent of their estimated pre-fishery population now exists). NMFS is responsible for ensuring the protection and repopulation of these species through the implementation of rebuilding plans and its biennial fishing specifications and limits. Based on the best available science, the PFMF develops these harvest recommendations for the species of fish within the FMP, which are then subject to revision by the NMFS and formal approval by the Secretary of Commerce. (50 C.F.R. § 660.370.) The GFMP and its implementing regulations (50 C.F.R. § 660.321) provide for routine management measures to be used for inseason management, which allows harvest specifications and management measures to be changed as more information becomes available. The NMFS is required to make inseason adjustments recommended by the PFMF available for public review and comment. (16 U.S.C. § 1852(h)(3); see also Natural Resources Defense Council v. Evans (2001) 168 F. Supp. 2d 1149.) Magnuson authorizes federal preemption of state law and regulation of any state fishery if (1) fishing in that fishery is otherwise covered by a FMP and is engaged in predominately within the EEZ and beyond, and (2) the state has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such FMP. (16 U.S.C. § 1856(b).)

Under existing state law, the Fish and Game Commission (Commission) adopts regulations governing recreational fishing in state waters. (Fish and Game Code § 205). The Department has jurisdiction over the conservation, protection, and management of fishery resources and habitat necessary for sustainable populations of those species. (Fish and Game Code §1802.) The Legislature has directly delegated to the Director of the Department the authority to conform state law or regulations of the Commission to any federal FMP if the Director finds that the action is necessary to achieve optimum yield in California and that it is necessary to avoid a substantial and adverse effect on the FMP by that state law or the regulations in order to continue state jurisdiction. However, this authority only applied originally to the commercial fishing sector. (Fish and Game Code § 7652.) In 2005, the Commission adopted regulations that delegated to the Department the authority to make conforming changes in the

recreational groundfish fisheries regulations in order to conform to federal actions. (14 C.C.R. § 27.20.) The Department may adopt regulations except as otherwise specifically provided by the Fish and Game Code, or where the Commission is required to adopt them. (Fish and Game Code § 702.)

V. Specific Agency Statutory Requirements:

There are no specific agency statutory requirements.

VI. Local Mandate Determination:

The Department has determined that the proposed emergency regulation does not impose a mandate on local agencies or school districts.

VII. Fiscal Impact:

The Department has determined that the proposed emergency regulation will not result in any cost to any local agency or school district for which Government Code Sections 17500 -17630 require reimbursement. The Department has determined that the proposed emergency regulation will not result in the imposition upon local agencies of any other non-discretionary cost or savings. The Department has determined that the proposed emergency regulation will not result in costs or savings in federal funding to the State. The Department has determined that the proposed emergency regulation will not result in any savings to the Department, but may result in minor additional costs to the Department that can be absorbed within existing program resources.

VIII. Identification of Reports Relied On:

CDFG Proposed Inseason Action Regarding California Recreational Groundfish Regulations (PFMC, September 2007, Agenda Item G.3.c, Supplemental CDFG Report

California Department of Fish and Game Report on Consideration on Inseason Adjustments (PFMC, March 2008, Agenda Item F.5.c, Supplemental REVISED CDFG Report

Code of Federal Regulations, Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures; Inseason Adjustments (April 18, 2008, v.73, No. 76, Section 21057)

Informative Digest (Plain English Overview)

Emergency regulatory action under the authority of the Director of the Department of Fish and Game (Fish and Game Code Section 702 and subsection 27.20(e), Title 14, CCR) is needed to protect yelloweye rockfish. This action is being undertaken to conform state law to federal law to maintain state jurisdiction over fisheries in state waters, and to avoid preemption under the federal Magnuson-Stevens Fisheries Conservation and Management Act. The regulatory action would modify the recreational groundfish regulations to prevent the recreational catch of yelloweye rockfish from exceeding the harvest guidelines (HG) established by the Pacific Fishery Management Council (PFMC). Yelloweye rockfish is specified as an “overfished” groundfish species and retention is prohibited in the recreational fishery to allow these species to recover, but is still subject to hooking—and barotrauma—induced mortality upon incidental capture (as bycatch) while fishing for other species. Bycatch mortality is accounted for in all catch estimates.

The National Marine Fisheries Service (NMFS) declared yelloweye rockfish to be overfished in 2002. Because this species is late-maturing, slow-growing and long-lived, rebuilding the population will take 76 years (see 50 C.F.R. § 660.365(a),(h).) In 2006, NMFS adopted a final rule to establish the 2007 and 2008 harvest guidelines (HGs) and management measures, and amend the Pacific Coast Groundfish Fishery Management Plan (GFMP) to implement revised rebuilding plans for the seven overfished species, including yelloweye rockfish. (71 Federal Register 78638 (December 29, 2006).) Together, the GFMP amendment and the 2007 and 2008 HGs and management measures are intended to rebuild overfished stocks as soon as possible, taking into account the status and biology of the stocks, the needs of fishing communities, and the interaction of the overfished stocks within the marine ecosystem.

On March 13, 2008, California reported to the Pacific Fishery Management Council (PFMC) that in 2007, the California recreational fishery significantly exceeded its HG for yelloweye rockfish. Because overfished stocks are managed on projected or anticipated catch based on past years’ data and current fishing season structure, California was asked to recommend inseason management actions that would keep the estimated catch of yelloweye rockfish and other overfished species from exceeding the respective 2008 HGs. The Department of Fish and Game moved forward with emergency amendments to recreational groundfish regulations pursuant to OAL File# 2008-0505-01E, which became effective May 9, 2008. The action taken at that time constrained fishing activities north of Pigeon Point (37° 11' N. lat.) to waters less than 20 fathoms in depth, based on the geographic and depth distribution of the 2007 catch. The measure was needed to ensure that 2008 fishing activities would not result in

exceeding the HGs for yelloweye rockfish and other overfished species, as had happened in 2007.

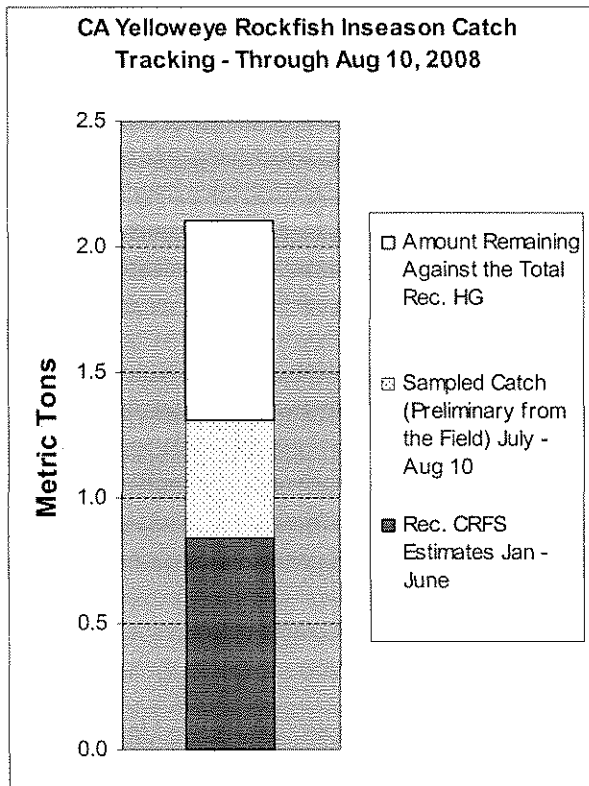
The Department has been closely tracking the volume and location of yelloweye rockfish catch since the opening dates of the 2008 recreational groundfish fishing season. Active inseason monitoring of data from the California Recreational Fisheries Survey (CRFS) indicate that despite the emergency action taken in May, California has already accrued 1.31 mt (62.4%) of yelloweye rockfish against the 2.1 mt HG as of August 10, 2008 (see Table 1 and Figure 1). Projecting these catch rates forward in time, the Department anticipates that the 2.1 mt HG will be attained by early September. As current regulations allow fishing through the end of November, they are not sufficient to limit the total mortality of yelloweye rockfish to levels below the HG.

Because approximately 84 percent of the sampled 2008 yelloweye rockfish catch has been from ports north of Point Arena (38° 57.5' N. lat., Mendocino County) (see Table 1), the Department anticipates that closing waters north of Point Arena to groundfish fishing at all depths should be sufficient to constrain the state's recreational yelloweye catches to the HG while allowing more southerly areas where yelloweye are less prevalent to remain open.

Table 1: Department estimates of the distribution of California's 2008 recreational yelloweye rockfish catch (1.31 mt) by groundfish management area through August 10, 2008.

Management Area	Percentage of Estimated Catch of 1.31 mt (Jan. thru Aug 10th)
North	32%
North-Central North of Point Arena	52%
North-Central South of Point Arena	12%
South-Central Monterey	4%
South-Central Morro Bay	0%
South	0%

Figure 1: Department estimates of yelloweye rockfish catch resulting from analysis of CRFS data. California's recreational catch for January through June of 2008 is estimated by CRFS models at 0.84 mt (red). Based on field sample data collected from July through Aug 10, the Department estimates an additional 0.47 mt (stippled red) has been taken as of this date. The amount of catch remaining toward the 2.1 mt harvest guideline is 0.79 mt (white).



Based upon the Department's current estimates of 2008 yelloweye rockfish catch, the Director proposes to take this emergency regulatory action to close the recreational groundfish fishery and associated species at all depths in waters north of Point Arena on September 2. The Director has found that this immediate action to close this portion of the fishery is necessary to prevent the HG in California from being exceeded and that it is necessary to avoid a substantial and adverse effect on the GFMP. If these waters were to remain open through the end of November as authorized by the current regulations, the Department anticipates that California's recreational yelloweye HG would be significantly exceeded.

Additionally, due to the format, organization and content of existing recreational groundfish regulations established in Sections 27.20 through 28.58, Title 14, CCR, the following amendments to the regulatory text are also necessary to ensure that waters north of Point Arena are closed to fishing effective September 2, while allowing areas to the south to remain open:

- The North-Central Groundfish Management Area (Section 27.30) would be split into two distinct management areas at Point Arena (38° 57.5' N. lat.,

Mendocino County) under the proposed action. Existing language of Section 27.30 would be modified to designate the northern portion of the area as the "North-Central North of Point Arena Groundfish Management Area," while Section 27.32 would be added to specify regulations for the "North-Central South of Point Arena Groundfish Management Area."

Splitting the North-Central Management Area would allow for differing regulations north and south of Point Arena, and allow for finer-scale regional management. The take of yelloweye rockfish north of Point Arena is significantly higher than that south of Point Arena as depicted in Table 1. To maximize recreational fishing opportunities, it is necessary to restrict the take of yelloweye rockfish by closing recreational groundfish fishing in the North-Central North of Point Arena Management Area, while still allowing the North-Central South of Point Arena Management Area to remain open.

Regulations pertaining to the Farallons Closure Area, the Cordell Bank Closure Area, and the exception allowing the year-round take of leopard shark in several bays would be removed from Section 27.30 and relocated to Section 27.32, so that these regulations appear within the management area corresponding to these geographic locations.

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